IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3101 OF 2006

Niyamat Ali Mohmad Yusuf Mansoori ..Petitioner.

Vs.

Kirit Kamdas Kapadia ..Respondent.

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Ms. Sonali Humane for the Petitioner.
Mr. V.P. Sawant for the Respondent.

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CORAM: DR. D.Y. CHANDRACHUD, J.

29th June, 2006.

P.C. :

The application under Section 33 C (2) of the Industrial Disputes Act, 1947 has been dismissed by the Labour Court. The evidence on the record inter alia consisted of the Petitioner's statement dated 27th July, 1995 recorded in a complaint to the police in which the Petitioner specifically stated that he had taken the power looms of the Respondent on a contract basis for conducting. To the same effect is a statement made in a complaint lodged on 27th June, 1996 at Bhoiwada Police Station. In fact in a complaint dated 23rd March, 1998 lodged by the Petitioner to the Narpoli Police Station, Bhiwandi, the Petitioner stated that he was conducting a hotel. In these circumstances, the existence of the

relationship of employer and employee itself was not established. In view of the evidence on the record, the Labour Court was justified in coming to the conclusion that there was no preexisting right on the basis of which the application could have been granted. These findings does not suffer from any error. There is no merit in the Petition which is accordingly dismissed.